

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW MEXICO**

VALERIE MONTOYA,

Plaintiff,

v.

CV No. 19-1204 CG

ANDREW SAUL,  
Commissioner of the  
Social Security Administration,

Defendant.

**ORDER GRANTING UNOPPOSED MOTION TO AWARD ATTORNEY FEES  
UNDER THE EQUAL ACCESS TO JUSTICE ACT**

**THIS MATTER** is before the Court on Plaintiff Valerie Montoya's *Opposed Motion for Attorney Fees Pursuant to the Equal Access to Justice Act, with Memorandum in Support* (the "Opposed Motion"), (Doc. 25), filed November 4, 2020, and her *Unopposed Motion for Attorney Fees Pursuant to the Equal Access to Justice Act, with Memorandum in Support* (the "Unopposed Motion"), (Doc. 26), filed November 18, 2020. The Court, having reviewed the Unopposed Motion under the Equal Access to Justice Act ("EAJA"), 28 U.S.C. § 2412, finds the Unopposed Motion is well-taken and shall be granted.

**IT IS THEREFORE ORDERED** that Plaintiff shall be awarded \$6,800.00 in attorney fees pursuant to EAJA, 28 U.S.C. § 2412(d), made payable to Plaintiff but mailed to Plaintiff's attorney. See *Astrue v. Ratliff*, 560 U.S. 586 (2010) (EAJA fees are paid to the prevailing party, not the attorney).

**IT IS FURTHER ORDERED** that if Plaintiff's counsel receives attorney fees under both the EAJA and 42 U.S.C. § 406(b) of the Social Security Act, Plaintiff's counsel shall refund the smaller award to Plaintiff pursuant to *Weakley v. Bowen*, 803 F.2d 575, 580 (10th Cir. 1986).

**IT IS FINALLY ORDERED** that Plaintiff's Opposed Motion, (Doc. 25), is **DENIED**  
**AS MOOT.**

**IT IS SO ORDERED.**

A handwritten signature in black ink, appearing to read 'Carmen E. Garza', with a long horizontal flourish extending to the right.

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THE HONORABLE CARMEN E. GARZA  
CHIEF UNITED STATES MAGISTRATE JUDGE